

EXHIBIT 1

In the Matter Of:

SCOTT TURNAGE Vs.

BILL OLDHAM

2:16-cv-2907

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TAPED PROCEEDINGS

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1 don't have to do it now, but identify the number
2 of jackets you want photocopied and produced.

3 If you want to consult with -- it looks
4 likes there are some people standing up there.

5 MR. TIMMONS: Going down the
6 statistical analysis road, none of us are
7 statisticians, but my only suggestion, if we're
8 going to use that proof to certify the case --

9 THE COURT: I'll let you finish, but I
10 think we're completing two issues here. This is
11 just discovery to find out who is in the class.

12 So your comment earlier, Mr. Timmons,
13 about having an expert look at this might have
14 some value later on in extrapolating from this
15 data how broad the class is.

16 MR. TIMMONS: Yes, Your Honor.

17 THE COURT: Whereas what I was looking
18 at -- the angle I was looking at it from was one
19 of what is the most cost efficient way of
20 getting discovery to even identify these
21 individuals. It is almost like two different
22 issues in my mind.

23 MR. TIMMONS: I think we're sort on the
24 same page. My only comment was going to be if
25 we could consult with an expert, because I want

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1 to make sure the sampling we get is
2 statistically significant. If we get enough,
3 whatever that number is, and I don't know, maybe
4 1,000, maybe 2,000, but if we get it, we might
5 be able to use that for various purposes and we
6 won't have to get any more.

7 If we've got an expert statistician
8 that analyzed it and establishes that we've got
9 more than forty people to satisfy the subclass,
10 we might use that person as an expert and move
11 to certification. My only comment is I would
12 like the ability to consult with someone who
13 knows something about statistics before we tell
14 the judge we need 500 jackets or need 1,000.

15 THE COURT: You understand what I'm
16 saying about there being two separate issues?

17 MR. TIMMONS: I think it is.

18 THE COURT: At some point there may be
19 an argument of we haven't got all the jackets.
20 We know there are 10,000 individuals. We just
21 pulled 500, and from that, 400 fall within the
22 class, and then we can extrapolate from that
23 some type of value about how many other class
24 members there may be and that may lead to
25 further argument later on, but for purposes of

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1 my discussion today what I was getting at is
2 simply how many do you need to -- sort of
3 intuitively think you need so that you can get a
4 number and you can start the process of getting
5 information.

6 I certainly don't want to redo the
7 process if it would -- if the plaintiffs later
8 on get an expert and there is an argument that,
9 well, the method of hand-picking individuals
10 caused into question the randomness of that
11 selection and his later testimony about how
12 significant that information is.

13 MR. TIMMONS: I really should have said
14 that earlier. I don't know why -- it was in my
15 mind. There is a problem with a statistical
16 analysis of the types of documents selected and
17 the way Mr. Craddock discussed. They are not
18 randomly selected. They can't generate a
19 statistically-valid figure.

20 I'm not a statistician. I don't claim
21 to be one. I did spend five or six years of
22 political consulting, and I used to do a lot of
23 polling work. I have some idea of how to select
24 a random sample.

25 Us going through this list and us going

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1 we want that one, that one and that one, that's
2 not it. That it would invalidate the data set.
3 We need two different mechanisms for selecting
4 files. One is a random statistically-
5 significant sample. We'll stick with my
6 co-counsel on the statement we'd like to ask the
7 statistician what that number is.

8 If for some reason we can't agree with
9 the definition of "statistically significant,"
10 we can always present that narrow issue to the
11 court in writing with affidavits from our
12 respective experts.

13 The other thing is that there are
14 obviously jackets that are going to be
15 red-flagged. For example, that third one down
16 where the bond-set date and the bond-post date
17 are seven days -- or the bond-set date and the
18 Odyssey bond-set date are seven days apart in
19 the reverse of what they ought to be. Obviously
20 we probably want to be able to see that. We
21 need to look at that jacket because of this
22 obviously gross error in the data.

23 So we need the ability to ask for
24 certain jackets like they suggested, but we also
25 need a statistically-significant random sampling

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1 so that we can have a statistician determine
2 class sizes. That's probably the easiest way to
3 figure out what the class size in a case like
4 this is.

5 THE COURT: I know that wasn't the
6 purpose of the motion, but to avoid duplication
7 of effort there, it sounds like it is something
8 you would want to consider and consult with
9 someone before both sides start putting more
10 money into this discovery process and having to
11 re-pull jackets six months from now.

12 Okay. So let's do this: I think what
13 we should do is continue the hearing. Everyone
14 is in town, correct? No one is from out of
15 town?

16 MR. TIMMONS: Yes, Your Honor.

17 THE COURT: And maybe we can reconvene
18 in a couple weeks to give you an opportunity to
19 talk to your experts and get additional
20 information, and then we can discuss further how
21 to approach the pulling of these jackets.

22 MR. WATSON: Do we want to go ahead and
23 pick a date for the hearing date, Your Honor?
24 We have the holidays coming up. It is going to
25 be --